

Supreme Court, U.S.
FILED

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IN THE
SUPREME COURT OF THE UNITED STATES

Melvin Holst

Petitioner

v

The City of Portland, Oregon;
The 4th Circuit Court of the State of Oregon

Respondents

On Petition For Writ of Certiorari
To The U.S. Court of Appeals For the Ninth Circuit

PETITION FOR WRIT OF CERTIORARI

Melvin Holst, Petitioner Pro se
215 SW 14th St
Gresham, Oregon 97080
Tel: (503) 661-1556

QUESTIONS PRESENTED FOR REVIEW

1. Whether the U.S. Federal Court System can justly sustain a conviction by a lower state court when that lower state court had knowingly accepted into evidence for conviction during trial; evidence that unquestionably had been altered and/or was precluded from being seen by Petitioner for his defense before trial? And for which such tampering is a Class A Misdemeanor under Oregon law?

2. Whether a U.S. Federal Court does or does not have a responsibility to mandate a State Court or municipality to "cease and desist" when the evidence those two state entities used to gain convictions; clearly were either altered or had been denied to drivers before trial?

3. And the extent to which state authorities should or should NOT be mandated to return to drivers who qualify; the millions of fine dollars that were unconstitutionally extracted from them in Oregon's 4th Circuit Court? Or were paid by drivers when they had been denied evidence upon which they could otherwise have defended themselves in court if they could have seen the evidence upon which they were charged before their fine payments were due? See OREGONIAN newspaper article at Appendix K.

PARTIES TO THIS PROCEEDING:

**1. UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

Chief Judge Schroeder
95 Seventh Street
P.O. Box 193939
San Francisco, CA 94119-3939
Tel (415) 556 9730

**2. UNITES STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

Office of the Clerk
1000 SW Third Avenue
Portland, Oregon 97204-2902
Tel (503) 326 8000

3. JUDY C. LUCAS, Assistant Attorney General

Attorney for Defendants-Appellees
Circuit Court of the State of Oregon for
Multnomah County and Mr. Dale Koch,
Presiding Judge, 4th Circuit
Oregon Department of Justice

1162 Court Street, NE
Salem, Oregon 97301-4096
Tel (503) 378 4402

4. THE CITY OF PORTLAND OREGON

Mr. Harry Auerbach, OSB # 82183
Chief Deputy City Attorney
Attorney for Defendants-Appellees the
City of Portland and Vera Katz, Mayor
1221 SW Fourth Avenue, Room 430
Portland, Oregon 97204
Tel (503) 823 4047

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TABLE OF AUTHORITIES

1. RULE 26 of the United States Rules for Civil Procedure (Appendix E)
2. U.S. Constitutional Amendments V and XIV (Appendix F.)
3. Oregon Statute: 162.295, Tampering (Appendix J)
4. Oregon Statute: 183.482, Retrials (Appendix M)
5. Oregon Statute: 810.250, Sign Legibility (Appendix N.)

CITATIONS AND ORDERS BY COURTS

Appendix A Ruling of Oregon's 4th Circuit Court
Appendix B Judgment of U.S. District Court, OR
Appendix C Memo US Court of Appeals 9th Ckt
Appendix D. Order US Court of Appeals, 9th Ckt

BASIS FOR JURISDICTION

Petitioner pleads for this Writ authority based upon an unsigned ORDER from the United States Court of Appeals for the Ninth Circuit which states that No further filings will be accepted in this closed appeal (Appendix D.) And, such authority is granted by RULE 13 of the United States Supreme Court

That United States Court of Appeals entered it's ORDER on December 14, 2005

Petitioner Holst is a Native Born U.S. citizen with residence in Gresham, Oregon

TEXT OF THIS PETITION

1. GENERAL. I, Petitioner Holst CANNOT Accept the U.S. Court of Appeals arguments within their Memorandum at Appendix C which assert that my claims were properly dismissed because quote: a) "I did not identify any underlying constitutional violation. And, b) because Portland's photo-radar procedures comport with Oregon law." Unquote. Please understand, Your Honors, that my federal lawsuit of 9-29-03 specifically DID reflect the underlying causes of my Due Process Complaint (Appendix G.) And Portland procedures unquestionably do NOT comport with either Oregon law or the Federal laws on DISCLOSURE and DUE PROCESS (Appendix E.) And such unquestionable violations are the very essence of what this Petition is all about. For specific details, see Paragraphs 2 through 4, directly below. These are:

2. Reference Certiorari Question #1

a. First, from the cropped photo on my Violation Notice, I had absolutely NO IDEA where my vehicle was located on SE WOODSTOCK when I was "snapped." And, not knowing that information, I had no evidence upon which to base a defense. Moreover, I falsely assumed that the photo on my Violation Notice was the one and only Photo the Police had taken. So when 3 photos were shown in court I was perplexed. But most importantly, it did NOT "dawn" on me until after trial that the photo on my Violation Notice did NOT show the Floor Store background building that was on the three (3) photos shown in court. So with those recollections of what was shown in court, I went back to area of the alleged infraction and found that the 25MPH sign in question sits just across street from the Blue Floor store of Appendix I. And that it locates on the "Western back-side" of SE 57th Street where it is readily

blocked from view by vehicles on SE 57th street awaiting traffic to pass. Whereas if it had been placed on the "Eastern front side" of SE 57th street, it could NOT be blocked from view by those type vehicles. Petitioner then concluded that the City of Portland had illegally been cropping the photos on their Violation Notices such as to keep drivers from ascertaining the relationship of their vehicles to the sign when "snapped." And 2) without knowing those time-distance factors, drivers have no basis upon which to develop a viable defense (Appendix K.) And 3,) it also denied drivers the right to ascertain that those not seeing the sign have only 2-4 seconds in which to respond rather than the 14-18 seconds that are normal for other Portland intersections. And that drivers with sign views so blocked shall not be convicted under Oregon law (Appendix N.)

b. Petitioner's Due Process right to see the True Photo before trial had been specifically denied to him as is expressed directly within the Speed Law Violation Notice, itself (Appendix H.) I.e., Petitioner was the actual driver of the vehicle involved. Hence before trial, he was specifically precluded from seeing the True Photo that had been taken. And that written denial was further confirmed by the person at Tel Nr (503) 221-0415 who strongly reiterated that bar when Petitioner called and requested authority to see the photo and their radar unit. And, to especially talk to the police person involved.

c. That True Photo also was not reviewable by Petitioner for his Appeal until after some 3-4- months had transpired in haggling & being threatened by Portland Police. And, when that photo was finally obtained from them, the three (3) photos shown in court had become just two. I.e., one had "mystically disappeared." And Portland Police could not explain

what had happened to the third photo. I.e., had it "mysteriously disappeared" on purpose, perhaps, to forever obscure more damaging evidence, such as a different auto speed on the missing photo than is reflected on the photo of Appendix I?

d. And, Petitioner's Due Process right to see and talk to the City of Portland policeman involved as provided by the Federal Rule 26 Authority at Appendix E also was flatly denied to Petitioner during the above referenced telephone call.

e. And Petitioner's Due Process right to "inspect" the Photo Radar device also was specifically denied to Petitioner during the conversation cited in sub-paragraph 2b, above. Petitioner has radar experience and wished to see if the read-out dials could be intentionally misset with a "bias" so as to give readings on the photos that were false.

f. Moreover, the City of Portland's cash offering of \$5,000 to me, Plaintiff HOLST, if I would drop my Law suit against them back o/a April/May, 2004, surely could not help but have one conclude that the City's legal staff is fully convinced that it and 4th Circuit in Portland are unquestionably GUILTY of the unconstitutional practices cited above. So their procedures of September 2002 did NOT comport with either State or Federal Law as contrarily suggested within the U.S. Appeals Court memo at Appendix C.

g. In short, Respondent leaders, Mayor Katz; and Presiding Judge, Koch; each just had to have known of those unconstitutional practices several years before this case ever came to court. And they should have some form of meaningful punishment imposed upon them. REASONS: 1) They "smear" the concept of "Honest Government" and 2) They rain havoc upon many Portland drivers who were Not Guilty of the driving offenses of which they were

charged. So, if those two leaders cannot be held accountable for this travesty on justice, then who can?

3. Reference Certiorari Question #2: I, Petitioner Holst, have for several years offered concrete and irrefutable evidence to U.S. Courts that the City of Portland, Oregon has been using Notices of Speed Law Violation that for many years have unquestionably denied evidence to drivers and, thus are undeniably unconstitutional. AND the 4th Circuit Court for Multnomah County in Oregon has been allowing those unconstitutional denials of evidence to be used as a lever for enhancing convictions and increasing revenues. As such, then why can NOT the two U. S. Courts through which Petitioner's Complaint was made, be held accountable? And, to have the revenues they so unconstitutionally collected; returned to the drivers who would qualify?

3. Reference Certiorari Question #3: The Question speaks for itself. No amplification required.

CONCLUSIONS:

1. The issues in this case have been exhausted. And they are not known to be procedurally barred. And the Petition is timely
2. Thus, this Petition for a Writ of Certiorari has been filed because The United States Court of Appeals for the Ninth Circuit has unjustly denied my Appeal and my subsequent Petition for Panel Re-hearing. And their reasons are erred. And they did not uphold our U.S. laws for protecting we citizen's Civil Rights. And it is being done during the 90 day period within which Petitioner has authority to seek certiorari in the United States Supreme Court.
3. Moreover, the conviction under which Petitioner seeks relief, has been unconstitutionally imposed. And it should be either declared void or allowed for Re-trial as elsewhere suggested herein.
4. And something authoritative must be done to return to drivers who wish, the Millions of U.S. dollars in fine monies they were collectively caused to pay because both respondents, collectively, did not allow those drivers their "due process" Civil Rights for defending themselves.

**THEREFORE, PETITIONER MOVES THIS MOST
HONORABLE COURT TO GRANT THE
FOLLOWING RELIEF**

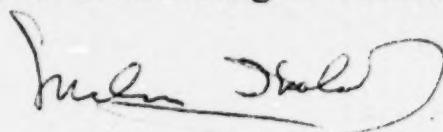
1. Accept jurisdiction over this case.
2. Find that Petitioner was denied his due Process rights under the U.S. constitution and, thus should be allowed to either have a re-trial (Appendix M;) or have his case thrown out and his clean driving record of some 50+ years restored. And, refund all "fine, court processing fees and increased Auto insurance rates" that fell out of the erred conviction. In Petitioner's case, the increased auto insurance premium alone has become \$964 in just 3 years.

3. Cause the City of Portland, Oregon, to immediately amend it's Photo Radar Traffic Violation Notices such that they become in full compliance with constitutional law.

4. Cause the appropriate state courts to "Cease and Desist" in their unconstitutional convictions of drivers who have been denied their civil right to due process.

5. Issue whatever instructions are necessary to impose some form of meaningful punishment upon now retired Mayor Katz (City of Portland;) and Presiding Judge Koch (4th Circuit for Multnomah County in Oregon,) such that they will have to think hard and long before they authorize "their citizens" to be tried without being afforded unrestricted access to the full scope of evidence that is germane before trial. Yes, U.S. Dollar Revenue most probably was the underlying cause of those two leader's transgressions. But those two (2) unscrupulous acts cast a very "black eye" upon the authorities of government. Hence those two (2) should be caused to appropriately "pay" for the travails (fines, time expenditures, added insurance premiums, etc.) they have

imposed upon the thousands of drivers who were denied their full scope of civil rights after having been "snapped" while traveling on Portland streets.



Melvin Holst, Petitioner pro se
215 SW 14th St
Gresham, Oregon 97080
Tel (503) 661-1556
Email: MIMSOBJoan@AOL.com
